

LAND LAWS IN THE TERRITORY OF HAWAII

It is proper to preface the story of the land laws of Hawaii, which are peculiar to the Territory, with a brief history of how the laws came to be as they are. Writing on this topic, Land Commissioner Pratt says:

The original group of the Hawaiian Islands consisted of Hawaii, Maui, Molokai, Kahoolawe, Lanai, Oahu, Kauai, Niihau, together with a number of very small adjacent points of land which are known as separate islands, but which amount to nothing unless taken in conjunction with the larger lands. Within late years other small islands in the chain extending to the north and west from the main group have become, by annexation, a part of what is now known as the Territory of Hawaii. The main group is situated between 19 and 23 degrees north of the equator, and is about 2,000 miles west of the Pacific coast of America. This is exactly the same position north held by Cuba.

The combined area of the Hawaiian Islands is about 6,500 square miles, divided as follows as to the larger islands:

	Sq. miles.
Hawaii	4,015
Maui	728
Oahu	600
Kauai	544
Molokai	261
Lanai	135
Niihau	97
Kahoolawe	69

The largest island, Hawaii, is about the size of the State of Connecticut, and the combined group about equals the area of New Jersey.

Prior to 1830 absolute ownership and control of all lands vested in the King. In 1839 and 1840 an attempt was made to pass a law that would give some title to occupants of lands, but the law appears to have proved a failure, for conditions remained practically the same until 1846, when a law was passed authorizing the organizing of a commission to take evidence as to occupancy and to award, to those entitled to receive the same, the lands in fee. This division, or mahele, of the lands took place March 7, 1848, at which time a portion of the land was reserved by the King as a private property of the Crown, a portion allotted to the chiefs and a portion to the people. On the 8th day of March, 1848, the King conveyed a large portion of all the lands, that he had retained at the division of the previous day, to the Government. The commission awarded ownership on over 11,000 claims, mostly of very small area. The result of this division of the lands was about as follows:

	Acres.
The Crown	1,100,000
The Government	1,413,000
The chiefs and the people	1,647,000
A total	4,160,000

This ownership applied mostly to Hawaiians, as by the laws of 1850 and 1854 foreigners were practically prohibited from ownership in lands, except under special conditions and circumstances.

Immediately following the division, or mahele, the Government commenced to sell and lease its lands in large tracts in order to replenish an empty treasury. Naturally the best lands went first, as the portions remaining being of the inferior class. The value of the remainder has decreased until at the present time the government lands are great in area but of the smallest value, tens of thousands of acres being barren lava, upon which not a bit of vegetation has grown from fifty to one hundred years. The result is that by far the largest portion of the islands depended on for sites for homesteads and revenue-producing purposes is now the land formerly known as the Crown lands.

By an act of the legislature approved January 3, 1865, the Crown lands were rendered inalienable, and the commissioners were allowed to lease the lands for periods of not more than thirty years. This act was framed apparently to safeguard the revenues from the land and to prevent the commissioners from selling them off in any sized tracts and at any price, as the Government lands were sold.

By an act of 1874 the minister of the interior was allowed to sell, lease, or otherwise dispose of Government lands in such manner as he might deem best. This act was amended in 1876 and 1878 by making it mandatory to sell or lease only at public auction, after advertising for at least thirty days.

By an act approved August 29, 1881, the minister of the interior was allowed to issue five-year homestead leases on lots of not less than 2 and not more than 20 acres, the lands to be appraised and the annual rental to be equal to 10 per cent of the appraised value of the land; residence and fencing required and payment of principal within five years, failing which the lands reverted to the Government.

By an act approved September 6, 1888, the above act was amended to allow lands in Kahikini and Kipahulu, Maui, and in Kona and Puna, Hawaii, to be leased under the homestead act in tracts of not more than 100 acres. This act was again amended by act of November 14, 1890, and the term was made ten years and the annual rental reduced to 5 per cent of the appraised value.

The present land law was enacted by the legislature of the Republic of Hawaii on the 14th day of August, 1895, and with slight amendments continued in force by an act of Congress on the 27th day of April, 1900, and approved on the 30th day of April, 1900, by President McKinley. The following is a digest of our present land law:

DIGEST OF THE LAND ACT OF 1895.

(As continued in force by an act entitled "An act to provide a government for the Territory of Hawaii," passed by the Fifty-sixth Congress of the United States of America, on the 27th day of April, and approved on the 30th day of April, A. D. 1900.)

(With reference to unoccupied lands.) The land act of 1895, as aforesaid, having for its special object the settlement and cultivation of the government agricultural and pastoral land, vested the control and management of public lands in a commissioner.

For the purpose of the act, the Territory of Hawaii is divided into six land districts, as follows:

First. Hilo and Puna, on the island of Hawaii.

Second. Hamakua and Kohala, on the island of Hawaii.

Third. Kona and Kau, on the island of Hawaii.

Fourth. The islands of Maui, Molokai, Lanai, and Kahoolawe.

Fifth. The island of Oahu.

Sixth. The island of Kauai.

The commissioner is represented by a subagent in each district.

Public lands for the purposes of this act are classified as follows:

1. **Agricultural lands.**—First class: Land suitable for the cultivation of fruit, coffee, sugar, or other perennial crops, with or without irrigation.

Second class: Land suitable for the cultivation of annual crops only.

Third class: Wet lands such as kalo and rice lands.

2. **Pastoral land.**—First class: Land not in the description of agricultural land, but capable of carrying live stock the year through.

Second class: Land capable of carrying live stock only part of the year, or otherwise inferior to first-class pastoral land.

3. **Pastoral-agricultural land.**—Land adapted in part for pasturage and in part for cultivation.

4. **Forest land.**—Land producing forest trees, but unsuitable for cultivation.

5. **Waste land.**—Land not included in other classes.

The act provided three principal methods for the acquisition of public lands, under systems known as (1) homestead lease, (2) right of purchase lease, (3) cash freehold.

GENERAL QUALIFICATIONS OF APPLICANTS.

Applicants for land under systems named above must be over 18 years of age, must be citizens by birth or naturalization or have received a certificate of declaration of intention to become a citizen, be under no civil disability for any offense, nor delinquent in the payment of taxes. Special qualifications are named under the respective systems.

HOMESTEAD-LEASE SYSTEM.

The homestead-lease system permits the acquisition of public land by qualified persons without other payments than a fee of \$2 upon application and a fee of \$5 upon issuance of homestead lease.

The limit of area in the different classes of land which may be acquired under homestead lease is 8 acres first-class agricultural land; 10 acres second-class agricultural land; 1 acre wet (rice or kalo) land; 20 acres first-class pastoral land; 60 acres second-class pastoral land; 45 acres pastoral-agricultural land.

SPECIAL QUALIFICATIONS OF APPLICANTS FOR HOMESTEAD LEASE.

Any person having the general qualifications (as to citizenship, etc.), who is not the owner in his own right of any

land in the Territory of Hawaii, other than "wet land" (rice, taro, etc.), and who is not an applicant for other land under this act, may apply under this part of the act, and such application may cover one lot of wet land in addition to other land, if reasonably near. Husband and wife may not both be applicants.

Applications must be made in person at the office of subagents of the district, accompanied by sworn declaration of qualifications and a fee of \$2.

CERTIFICATE OF OCCUPATION.

The successful applicant receives a certificate of occupation which entitles him to occupy the described premises and to receive a homestead lease for nine hundred and ninety-nine years, if conditions of certificate of occupation have been fulfilled, the conditions being:

That the occupier shall, before the end of two years, build a dwelling house and reside on the premises. He shall maintain his home on the premises from and after the end of two years from date of certificate. He shall before the end of six years from date of certificate have in cultivation not less than 10 per cent of the land, or have in cultivation 5 per cent of the land and, in good growing condition, not less than ten timber, shade, or fruit trees per acre on agricultural land, or if pastoral land, fence the same within six years.

He shall pay the taxes assessed upon the premises within sixty days after the same are delinquent.

He shall perform any conditions of the certificate for the planting or protection of trees, or preservation or destruction of vegetable pests that may be on the premises.

CONDITIONS OF HOMESTEAD LEASE.

The lessee or his successors must maintain his home on the leased premises, must pay the taxes assessed upon the premises within sixty days after the same are delinquent, and perform any condition of the lease relating to protection or planting of trees, or destruction or prevention of vegetable pests.

Lands held under a certificate of occupation or homestead lease are liable to taxation as estates in fee.

In case of the death of an occupier or lessee his interests, notwithstanding any devise or bequest, shall vest in his relations, in the order prescribed in the act, the widow or widower, being first in order, then the children, etc.

Certificate of occupation or homestead lease, or any interest thereunder, is not assignable by way of mortgage, levy or sale on any process issuing from the courts of the country. Neither the whole nor any portion of the premises may be sublet.

Surrender may be made to the government by an occupier or lessee having the whole interest if all conditions to date of surrender have been fulfilled, and the person surrendering is entitled to receive from the government the value of permanent improvement, when-

ever the same is received by the government from a new tenant.

RIGHT OF PURCHASE LEASES.

Right of purchase leases, for the term of twenty-one years, may be issued to qualified applicants, with the privilege to the lessee of purchasing at the end of three years and upon the fulfillment of special conditions.

QUALIFICATION OF APPLICANTS.

Any person who is over 18 years of age, who is a citizen by birth or naturalization of the United States, or who has received a certificate of declaration of intention to become a citizen, who is under no civil disability for any offense, who is not delinquent in the payment of taxes, and who does not own any agricultural or pastoral lands, in the Territory of Hawaii, may apply for right of purchase lease, the limit of areas which may be acquired being 100 acres first-class agricultural land, 200 acres second-class agricultural land, 2 acres wet (rice or taro) land, 600 acres first-class pastoral land, 1,200 acres second-class pastoral land, 400 acres mixed agricultural and pastoral land.

Any qualified person, owning less than the respective amounts in the foregoing list, and which is not subject to residence conditions, may acquire additional land of the classes already held by him, but so that his aggregate holding shall not be in excess of the limit named; or if desiring additional land of another class may acquire the same according to ratio established between the various classes.

Husband and wife may not be applicants for right of purchase leases.

Application must be made in person at the office of the subagent of the district, and must be accompanied by a fee equal to six months' rent of premises, fee to be credited on account of rent, if application is successful. In case of more than one application for same lot the first application takes precedence.

CONDITIONS OF RIGHT OF PURCHASE LEASE.

Term: Twenty-one years.

Rental: Eight per cent on the appraised value given in lease, payable semiannually.

The lessee must from the end of the first to the end of the fifth year continuously maintain his home on the leased premises.

The lessee must have in cultivation at the end of three years 5 per cent and at the end of five years 10 per cent of his holdings, and maintain on agricultural land an average of ten trees to the acre.

Pastoral land must be fenced.

Interest in right of purchase lease is not assignable without written consent of the commissioner of public lands, but the lease may be surrendered to the government.

In case of forfeiture or surrender of right of purchase lease, reappraisal is made of the land and of permanent improvements thereon, and if the land is again disposed of, the incoming ten-

ant shall pay for such permanent improvements and the amount when so received by the government shall be paid to the surrendering lessee.

CONDITIONS UNDER WHICH PURCHASE MAY BE MADE.

At any time after third year of leasehold term, the lessee is entitled to a land patent giving fee simple title, upon his payment of the appraised value set forth in lease, if he has reduced to cultivation 25 per cent of his leased premises and has substantially performed all other conditions of his lease.

CASH FREEHOLDS.

Cash freehold lots are sold at auction to the highest qualified bidder, at appraised value as upset price.

The qualifications of applicant for cash freeholds and the areas of land which may be acquired are the same as those under right-of-purchase system.

APPLICATIONS.

Applications must be made to subagent of district in writing, with sworn declaration as to qualifications and a fee of 10 per cent of appraised value of lot, which fee is forfeited if applicant declines to take the premises at the appraised value, and is credited to him if he becomes the purchaser of the lot. If such applicant, however, is outbid, his fee is returned to him.

If two or more applications are made and there is no bid above the upset price the first application takes precedence.

The purchaser at auction sale must pay immediately thereafter one-fourth of purchase price and thereupon receive a "freehold agreement."

CONDITIONS OF FREEHOLD AGREEMENT.

The freeholder shall pay the balance of purchase price in equal installments in one, two, and three years, with interest at 6 per cent, but may pay any installment before it is due, and stop corresponding interest.

Twenty-five per cent of agricultural land must be cultivated and pastoral fenced before the end of third year.

Freeholder must maintain his home on the premises from the end of first to end of third year.

He may not assign or sublet without consent of the commissioner of public lands.

He must allow agents of the Territory of Hawaii and the United States to enter and examine the premises.

He must pay all taxes that may be due upon the premises.

If all conditions are fulfilled, he is entitled at end of three years to patent giving fee-simple title.

In case of forfeiture or surrender, the land and permanent improvements are reappraised separately, and the value of such improvements, when received by government from new tenant or freeholder, will be paid to surrendering freeholder.

SETTLEMENT ASSOCIATIONS.

Six or more qualified persons may form a "settlement association" and apply for holding in "one block."

The provisions for cash freehold and right-of-purchase leases apply to the settlement of such blocks.

Any lot in such block which may be forfeited or surrendered or which is not taken up by any member of the settlement association within three months, shall be open to any qualified applicants.

Disputes, disagreements, or misunderstandings between the parties to certificate of occupation, homestead lease, right-of-purchase lease, or cash freehold and relating thereto which can not be amicably settled shall be submitted to the circuit judge in whose jurisdiction the premises are situated, and his decision shall be final, subject only to appeal to supreme court.

CASH SALES AND SPECIAL AGREEMENTS.

With consent of the governor public lands not under lease may be sold in parcels of not over 1,000 acres at public auction for cash, and upon such sale and payment of full consideration a land patent will issue.

Parcels of land of not over 600 acres may, with consent of governor, be sold at public auction upon part credit and part cash, and upon such terms and conditions of improvement, residence, etc., as may be imposed.

Upon fulfillment of all conditions a land patent will issue.

GENERAL LEASES.

General leases of public lands may be made for a term not exceeding five years for agricultural land and twenty-one years for pastoral land.

Such leases are sold at public auction and require rent in advance quarterly, semiannually, or annually.

The condition of general leases are made at discretion of the commissioner and may be made for any class of public lands.

..SISAL..

About the year 1888 the commissioner of agriculture and forestry imported some 30,000 sisal plants from Florida.

The favorable results of experimental work with them developed in the formation of the Hawaiian Fibre Company (Limited). This company leased land from the Oahu Railway and Land Company, situated on the coral plain between Pearl Lochs and the Waianae Mountains, in the Ewa district, where plants were set out on a commercial basis. The barren, thin soil of this locality has been shown to be just what is needed for sisal, and comparative tests made by the Tubbs Cordage Company, of San Francisco, have proven the Hawaiian sisal to be superior to the best Yucatan.

When first started the Hawaiian Fibre Company represented an investment of about \$37,000, but later, owing to the success of the enterprise, the superior quality of the fibre, and high price it commanded, the company increased its capitalization to \$75,000.

At the present time there are about 750 acres of land in sisal, and it is expected that the area of the plantation will shortly be considerably increased, if not doubled. Sisal is of slow growth, requiring four years before the first crop matures.

The possibilities for Hawaii in sisal cultivation are shown by the number of plantations started on the various islands. The most promising localities for the growth of sisal have been found to be the comparatively barren, dry soils of the leeward coasts. From the nature of the sisal plant, requiring but little moisture and little cultivation, there are hundreds, probably thousands, of acres of land with thin, stony soil, not suited for sugar cane, which can be utilized for sisal cultivation. One of the largest plantations started on the other islands is the Knudsen plantation on Kauai. On Molokai and Maui considerable time and money have been spent in the introduction and cultivation of sisal. On Hawaii plantations have been started in the districts of Kona and Oahu, where the industry has become of considerable importance.

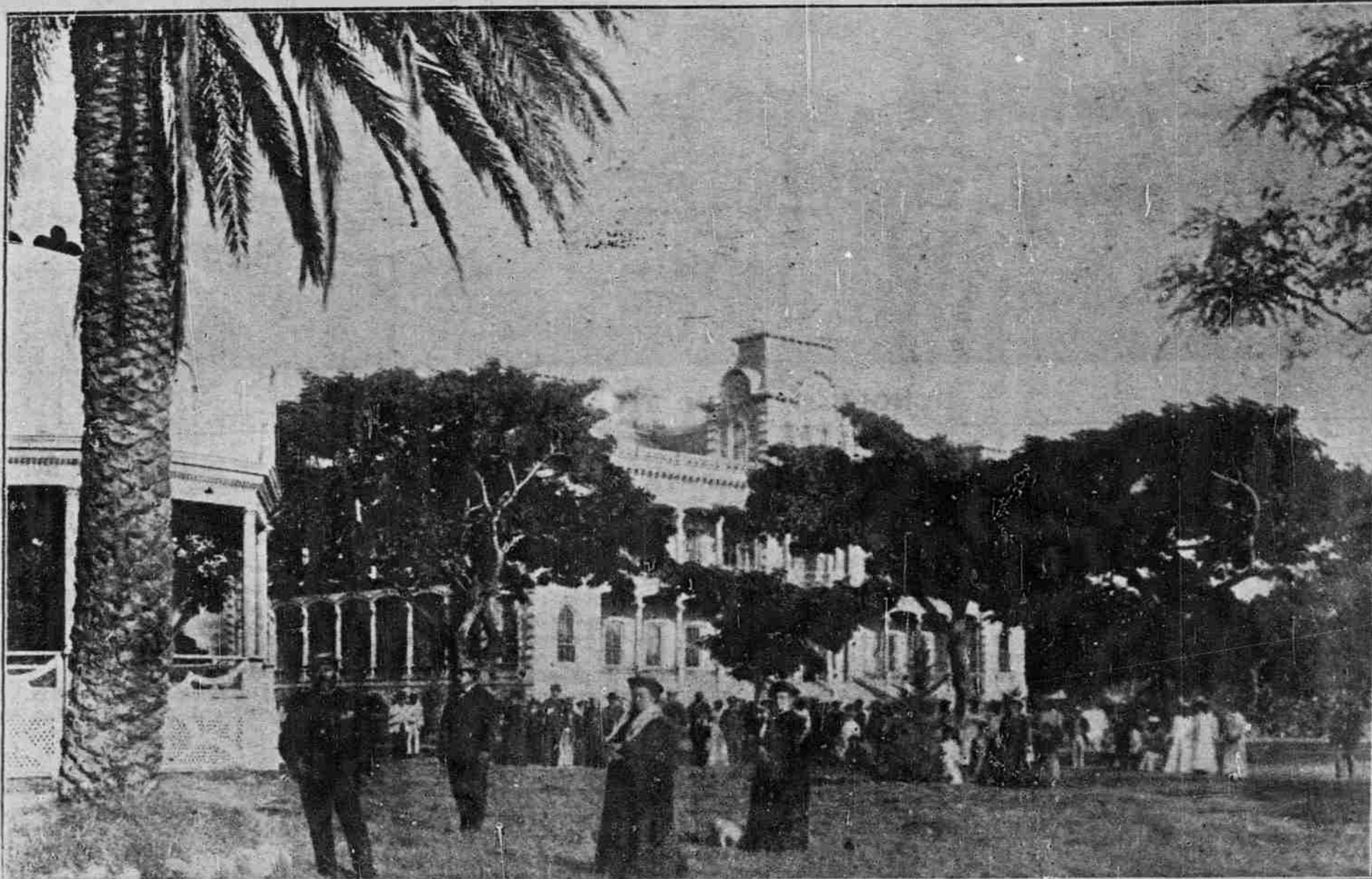
From the success of the Hawaiian Fibre Company and the condition of the industry on the other islands, it is safe to predict that the future of sisal in the Territory is now assured. As the islands have such large areas, at present mostly uncultivated, where the soil and climate are well adapted to its growth, and as it requires so little expenditure in cultivation and cleaning, owing to the superiority of the fibre over all others, except perhaps the Manila fibre, and the greater and greater demand for binding twine and cordage, the industry will be, as it now is, a profitable one, and the time is anticipated when sisal fibre will be one of the staple products of the Territory.

Picture postcards are subjected to stern censorship in some continental countries. In Russia those bearing the portrait of Tolstoi have been suppressed. Turkey forbids any postcard bearing the name of Allah or Mohammed or the portrait of a Mussulman. France will not permit the designer to ridicule the corpulence of the King of Portugal.

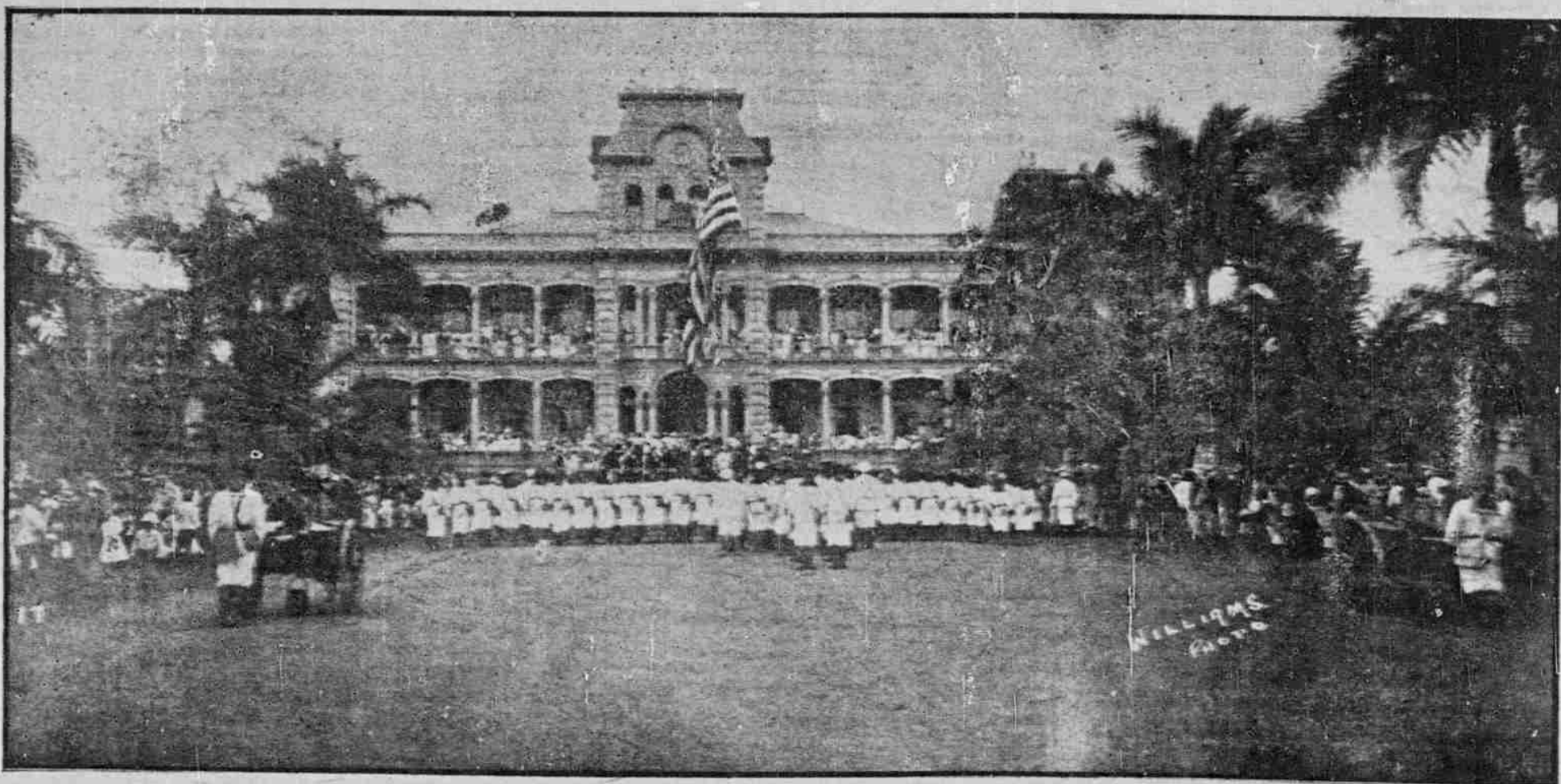
John L. Griffiths, to whose care the late President Benjamin Harrison left all his private papers, is reported to have discovered among them an extraordinary private document. This is nothing less important than an intimate history of the four years of the Harrison administration written by the president himself.

The youngest member of the house of commons is Viscount Turnour, who has just been elected to represent one of the Sussex divisions. He was 31 years old last April, is a conservative, and his family has long had association with the district where he won his parliamentary spurs.

Japan has 4,236 miles of railway, of which 210 miles were constructed in 1903. The number of passengers carried on these railways in 1903 exceeded 110,000,000; the freight transported was 16,122,671 metric tons, and the cash receipts amounted to about \$23,800,000.



KING KALAKAUA IN THE GROUNDS OF IOLANI PALACE.



HOISTING THE AMERICAN FLAG OVER THE PALACE AT THE ANNEXATION CEREMONIES, AUGUST 12, 1898.